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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

HOLLY GEHL, et al others similarly  
situated,

Plaintiffs,

vs.

BLOOMIN' BRANDS, INC., et al.,

Defendants

Case No. 4:13-cv-05961-KAW

[Judge Kandis A. Westmore]

**JOINT STIPULATION TO ALLOW  
FILING OF SECOND AMENDED  
COMPLAINT; ~~[PROPOSED]~~ ORDER**

1 The parties to the above-captioned action, through their attorneys of record,  
2 hereby stipulate and agree as follows:

3 WHEREAS, this action is a putative class action brought by the named  
4 plaintiffs on behalf of themselves and all current and former hourly, non-exempt  
5 employees employed by defendants at an “Outback Steakhouse” Restaurant in  
6 California, at any time during the statutory time period;

7 WHEREAS, as a result of discovery and investigation undertaken since the  
8 First Amended Complaint was filed, Plaintiffs contend that they have identified new  
9 plaintiffs who wish to join this action as named plaintiffs and facts supporting the  
10 assertion of additional claims not previously asserted

11 WHEREAS, plaintiffs therefore desire to amend the operative first amended  
12 complaint to add new named plaintiffs and/or new claims, as set forth in the  
13 proposed Second Amended Complaint attached as Exhibit A;

14 WHEREAS, Plaintiff’s counsel has filed a motion requesting leave to  
15 withdraw as counsel of record for named Plaintiff Shannon Spalding (“Spalding”),  
16 requesting that Spalding be withdrawn as a named Plaintiff, with prejudice to Ms.  
17 Spalding acting as a named Plaintiff and with prejudice to any claims against the  
18 Bloomin’ Defendants, and requesting that named Plaintiff Brittnei Zacher (“Zacher”)  
19 be withdrawn as a named Plaintiff;

20 WHEREAS, the hearing on the above-referenced motion related to Spalding  
21 and Zacher has been set for hearing on November 6, 2014;

22 WHEREAS, the Court has issued an Order to Show Cause addressed to  
23 Spalding and Zacher requiring that Spalding show cause by October 31, 2014 why  
24 Plaintiff’s counsel should not be permitted to withdraw as her counsel of record,  
25 requiring Spalding to submit a declaration regarding her desire to remain a named  
26 Plaintiff, and requiring Zacher to submit a declaration confirming that she does not  
27 wish to participate in this action as a named Plaintiff;

1 WHEREAS, Defendants are agreeable to Plaintiffs amending their complaint  
2 upon resolution by the Court of the above-referenced Motion related to Zacher and  
3 Spalding;

4 WHEREAS, the parties agree that if the Court orders that Zacher and  
5 Spalding should be dismissed as named Plaintiffs with prejudice, the attached  
6 Second Amended Complaint shall be deemed filed and served as of the date of such  
7 ruling; and

8 WHEREAS, the parties agree that if the Court rules that Spalding and Zacher  
9 should not be withdrawn as named Plaintiffs, Plaintiffs shall promptly revise the  
10 attached Second Amended Complaint to reflect such ruling and counsel shall  
11 promptly meet and confer regarding the preparation of a stipulation for such revised  
12 Second Amended Complaint to be filed.

13 THEREFORE, IN LIGHT OF THE FOREGOING, THE PARTIES HEREBY  
14 STIPULATE AND AGREE THAT:

15 1. If the Court rules that Zacher and Spalding shall be withdrawn as  
16 named Plaintiffs as requested by Plaintiffs' Motion to Withdraw (DKT # 53), the  
17 Second Amended Complaint attached as Exhibit A shall be deemed filed and served  
18 as of the date that the Court issues such a ruling; and

19 2. If the Court rules that Zacher and/or or Spalding should not be  
20 withdrawn as named Plaintiffs, Plaintiffs shall promptly revise the attached Second  
21 Amended Complaint to reflect such ruling and counsel shall promptly meet and  
22 confer regarding the preparation of a stipulation for such revised Second Amended  
23 Complaint to be filed.

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IT IS SO STIPULATED

DATED: October 17, 2014

WOLF, RIFKIN, SHAPIRO,  
SCHULMAN & RABKIN, LLP

By: /s/ Eric Levinrad

ERIC LEVINRAD

Attorneys for Attorneys for Plaintiffs

DATED: October 17, 2014

LATHROP & GAGE, LLP

By: /s/ Allison Wallin

BETH SCHROEDER

LAUREN KATUNICH

ALLISON WALLIN (Admitted *Pro Hac Vice*)

Attorneys for Defendants T-BIRD RESTAURANT  
GROUP, INC. and T-BIRD NEVADA, LLC

DATED: October 17, 2014

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Sara Zenewicz

SARAH ZENEWICZ

Attorneys for Defendants BLOOMIN' BRANDS,  
INC.; OSI RESTAURANT PARTNERS, LLC; and  
OS RESTAURANT SERVICES, LLC

**ORDER**

In light of the stipulation by and between plaintiffs and defendants and for good cause shown, IT IS HEREBY ORDERED THAT:

1. If the Court rules that Zacher and Spalding shall be withdrawn as named Plaintiffs, the Second Amended Complaint attached as Exhibit A shall be deemed filed and served as of the date that the Court issues such a ruling; and

2. If the Court rules that Zacher and/or or Spalding should not be withdrawn as named Plaintiffs, Plaintiffs shall promptly revise the attached Second Amended Complaint to reflect such ruling and counsel shall promptly meet and confer regarding the preparation of a stipulation for such revised Second Amended Complaint to be filed.

Dated: 11/7/14

  
\_\_\_\_\_  
HON. KANDIS A. WESTMORE  
UNITED STATES MAGISTRATE JUDGE